

12. (New) The method of claim 10, wherein said information specific to the fund includes a factor for the extent to which the funds returns are below the median for that sector for a time period.

13. (New) The method of claim 10, wherein, in the step of calculating expected annual returns for the fund, an adjustment for qualitative factors is made.

14. (New) The method of claim 10, wherein said step of calculating an expected annual return comprises the steps of calculating a low, and a high expected annual return.

REMARKS

In the present Application, Claims 1-3 were originally filed. Claims 2 and 3 have been cancelled by the foregoing Amendment. Claim 1 has been amended, and new Claims 4-14 have been added.

The Examiner's attention is directed to the Power of Attorney filed herewith.

The Examiner has noted that the listing of references in the specification is not a proper information disclosure statement. Applicant is filing herewith an Information Disclosure Statement in proper form, together with the fee therefor.

The Examiner has noted that the Application is informal in the arrangement of the specification. The Examiner has advised the Applicant on how to arrange the content of the specification. The Examiner has noted that the Abstract of the Disclosure does not commence on a separate sheet. The Examiner has noted that the spacing of the lines of the specification is such as to make reading and entry of amendments difficult. The Examiner has noted that the claims are objected to because the lines are crowded too closely together, making reading and entry of amendments difficult. The Examiner has required that if Applicant continues to prosecute the Application, revision of the specification and claims to present the Application in proper form is required..

In order to do so, a substitute specification is attached hereto, and the claims have been revised to place them in the order appropriate for patent applications. In the substitute specification, a number of format changes have been made, which are not reflected in the

foregoing amendment. In particular, the abstract has been moved to a separate sheet following the claims. The list of references cited has been removed. The claims have been moved to a separate sheet following the specification. The heading "BACKGROUND AND SUMMARY OF THE INVENTION" has been changed to --BACKGROUND OF THE INVENTION--. A paragraph break has been inserted after the third sentence following the heading --BACKGROUND AND SUMMARY OF THE INVENTION--. The heading --SUMMARY OF THE INVENTION-- has been inserted in that paragraph break. The heading --DETAILED DESCRIPTION-- has been inserted in the following paragraph break. The page formerly labeled "STEPS FOR ASSIGNING FUND RATINGS" has been removed, and two sheets of figures provided to illustrate the process flow depicted in that page.

The Examiner has stated the subject matter of the Application admits of illustration by a drawing to facilitate understanding of the invention. Two sheets of informal drawings are submitted herewith. These sheets of informal drawings, as indicated above, illustrate the process flow depicted on the sheet entitled "STEPS FOR ASSIGNING FUND RATINGS." Text corresponding to those drawings and incorporating additional information from the sheet entitled "STEPS FOR ASSIGNING FUND RATINGS" is introduced by amendment.

The Examiner has objected to the specification under 37 C.F.R. 1.71 on the grounds that the specification fails to provide an adequate written description of the invention and/or fails to adequately teach how to make and/or use the invention, i.e., failing to provide an enabling disclosure. The Examiner states that the Applicant has not effectively described the invention since it is not even clear if the invention is a method or a machine since no clear steps or apparatus are even mentioned. The Examiner states that the diagram is not enough for one of ordinary skill in the art to perform the method or make the apparatus (or program the computer).

By the foregoing amendment, the Claims have been revised to indicate clearly that the invention is a method. It is believed that all of the steps of the method are clearly set forth in the specification, which has been reformatted without the entry of a new matter.

Claims 1-3 stand rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or to use the

invention. The Examiner states that Claim 1 refers to a system which is neither defined in the claim nor the specification since no machine or process is described to generate the ratings. The Examiner states that a model is referred to without providing the actual model (algorithm) or how the model is implemented on the system or is performed. The Examiner states that a listing of results are not enough information to describe how to make and/or use the invention. The Examiner states that Claim 2 is also not defined and not a statutory class of invention (process, machine, etc.). The Examiner states that Claim 3 is a listing which amounts to printed matter which is also not statutory.

By the foregoing Amendment, Claims 2 and 3 have been cancelled. Claim 1 has been amended to recite a method. A second independent claim, Claim 4, has been added by amendment; this claim also recites a method.

The Claims are believed enabled by the specification, and this issue will now be demonstrated with reference to Claim 4. The first step in the method of Claim 4 is calculating an expected return over a time period for a sector corresponding to the fund based on financial futures corresponding to the sector. The calculation of expected returns for a group of funds based on financial futures is well known in the field. The Black-Scholes technique is known to provide the necessary methodology. Referring specifically to pages 122-126 of Robert W. Kolb, *Options: The Investor's Complete Toolkit* (New York Institute of Finance 1991), a copy of which pages are attached hereto in Attachment 1, the method is explained. This book is a well known text book in the field of analysis of returns on securities and financial markets, and is well known to those of ordinary skill in the art.

The second step in Claim 4 is calculating an expected range of returns for the sector based on prices of options for the futures. This technique is also explained in Kolb, *Options: The Investor's Complete Toolkit*, at pages 129-133, which pages are also included in Attachment 1. As noted above, this textbook is well known to those of ordinary skill in the relevant field.

A sample of the calculation of the expected return and range of returns for the Standard & Poor's 500 is shown in Attachment 2. This sample was prepared by the inventor, using data on prices contained in the *Wall Street Journal* of December 20, 2000. The calculation was accomplished using an off-the-shelf computer program provided with the textbook, Kolb,

Options: The Investor's Complete Toolkit. With the use of this off-the-shelf computer program applying the Black-Scholes option pricing model, the results are readily obtained.

The step of calculating an expected return for the fund over a time period based on the calculated expected return for the corresponding sector, the expected range of returns for the corresponding sector and the information specific to the fund is based on the information previously calculated. The information specific to the fund includes factors well known to financial analysts. These factors include an annual return adjustment factor equal to the difference between the annualized returns for the fund and a median return for other funds in the sector. The information may also include a factor accounting for the extent to which the fund returns are below the median for that sector for a time period.

The last step in Claim 4 is the step of assigning a rating based on the expected return for the fund. The step of assigning a rating to the fund is a simple and well known step. It is well known in connection with reviews of almost any factors to assign ratings to different numerical returns. A commonplace example is the assigning of letter grades to numerical returns on tests administered in schools for course work.

For the foregoing reasons, it is respectfully submitted that the specification provides an adequate written description of the invention and adequately teaches how to make and use the invention.

Claims 1-3 stand rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Examiner states that Claim 1 refers to a system which is neither defined in the claim nor the specification since no machine or process is described to generate the ratings. The Examiner states that a model is referred to without providing the actual model (algorithm) or how the model is implemented on the system or is performed. The Examiner states that a listing of results are not enough information to describe how to make and/or use the invention.

With respect to Claim 1, the claim has been amended to recite clearly that the invention is a method. As explained above, the model is well understood by those of ordinary skill in the art.

The Examiner states that Claim 2 is also not defined and not a statutory class of invention (process, machine, etc.). Claim 2 has been cancelled by the foregoing amendment. The Examiner states that Claim 3 is a listing which amounts to printed matter which is also not statutory. Claim 3 has been cancelled by the foregoing amendment.

Claims 1-3 stand rejected as failing to define the invention in the manner required by 35 U.S.C. §112, second paragraph. It is believed that the amendments to Claim 1 have overcome this rejection. Claims 2 and 3 have been cancelled by the foregoing amendment.

Claims 2-3 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. By the foregoing amendment, Claims 2 and 3 have been cancelled.

Claims 1-3 stand rejected under 35 U.S.C. §102(b) as being anticipated by Meschi, "Tomorrow's Best Bets" Financial World, v. 164, p. 61-64 5/9/85. The Examiner states that Meschi teaches rating, or ranking funds based on future expected returns.

The rejection is respectfully traversed as to claim 1 as amended. Meschi, in "Tomorrow's Best Bets," nowhere discloses or suggests the use of options or futures to evaluate funds.

Claims 1-3 stand rejected under 35 U.S.C. §102(b) as being anticipated by Meschi, et al, "The 1995 Fund Guide," Financial World, v. 164, n.6, p. 46-47, 2/28/95. The Examiner states that Meschi, et al., teaches rating, or ranking funds based on future expected returns.

The rejection is respectfully traversed as to claim 1 as amended. Meschi, et al., in "The 1995 Fund Guide," nowhere discloses or suggests the use of options or futures to evaluate funds.

It is respectfully submitted that all of the pending claims are in condition for allowance. Early reconsideration and allowance of the claims are respectfully requested. The Examiner is requested to telephone the undersigned if the Examiner believes that the claims are not in condition for allowance.

Respectfully submitted,



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